

**THE ORISSA AGRICULTURAL INCOME-TAX (AMENDMENT)
ACT, 1955**

TABLE OF CONTENTS

PREAMBLE :

CLAUSES :

1. Short title and commencement
2. Amendment of section 2, Orissa Act XXIV of 1947
3. Amendment of section 18, Orissa Act XXIV of 1947
4. Insertion of new sections 18-A, 18-B and 18-C in Orissa Act XXIV of 1947.
5. Amendment of section 26, Orissa Act XXIV of 1947
6. Amendment of section 27, Orissa Act XXIV of 1947
7. Amendment of section 28, Orissa Act XXIV of 1947
8. Amendment of section 29, Orissa Act XXIV of 1947
9. Amendment of section 33, Orissa Act XXIV of 1947
10. Amendment of section 35, Orissa Act XXIV of 1947

ORISSA ACT No. 14 OF 1955

**THE ORISSA AGRICULTURAL INCOME-TAX
(AMENDMENT) ACT, 1955**

[Received the assent of the Governor on the 15th October 1955,
first published in an extraordinary issue of the Orissa Gazette,
dated the 12th November 1955]

AN ACT TO AMEND THE ORISSA AGRICULTURAL INCOME-
TAX ACT, 1947

WHEREAS it is expedient to amend the Orissa Agricultural Income-tax Act, 1947, in the manner hereinafter appearing ;

Orissa Act
XXIV of
1947.

It is hereby enacted by the Legislature of the State of Orissa in the Sixth Year of the Republic of India as follows :—

Short title
and com-
mencement

*1. (1) This Act may be called the Orissa Agricultural Income-tax (Amendment) Act, 1955.

(2) Sections 1 and 2 shall come into force at once and the rest of the sections shall come into force on such date as the State Government may, by notification, appoint.

Amendment
of section 2,
Orissa Act
XXIV of
1947.

2. In section 2 of the Orissa Agricultural Income-tax Act, 1947 (hereinafter referred to as the said Act),—

Orissa Act
XXIV of
1947.

(i) after clause (g) the following new clause shall be inserted, namely :—

“(gg) ‘Commissioner’ means the Commissioner of Agricultural Income-tax as specified under section 18-A”.

(ii) after clause (r) the following new clause shall be inserted, namely :—

“(s) ‘Tribunal’ means the Tribunal specified in section 18-B”.

Amendment of section 18, Orissa Act XXIV of 1947.

3. In section 18 of the said Act—

(i) clause (a) of sub-section (1) shall be omitted.

(ii) after sub-section (3) the following new sub-section shall be inserted, namely :—

“(4) All the Agricultural Income-tax Authorities appointed under sub-section (2) and all members of the Tribunal specified in sub-section (1) of section 18-B shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code ”.

Insertion of new sections 18-A, 18-B and 18-C in Orissa Act XXIV of 1947.

4. After section 18 of the said Act the following new sections shall be inserted, namely :—

Appointment of the Commissioner and his powers and functions.

“18-A. (1) The Commissioner of Sales Tax appointed as such for the time being under sub-section (1) of section 3-A of the Orissa Sales Tax Act, 1947 shall be the Commissioner of Agricultural Income-tax and the State Government may appoint such other persons under any prescribed designations to assist him as the State Government may direct.

Orissa Act XIV of 1947.

(2) The Commissioner shall exercise the following powers and discharge the following functions :—

(i) to superintend and control all persons employed in the executive administration of Agricultural Income-tax ;

(ii) subject to the provisions of this Act and the rules made thereunder, to make rules of procedure and conduct of administration for the

guidance of the Collector of Agricultural Income-tax and other persons subordinate to himself and the Collector of Agricultural Income-tax ;

(iii) to call for any record from the Collector of Agricultural Income-tax or any other subordinate officer and also to call for any papers in connection with any assessment ;

(iv) to be made a party in all judicial proceedings before the Tribunal ;

(v) to inspect the records, and to superintend the work of the offices and of the Courts of the Collector of Agricultural Income-tax or any other officer subordinate to the Collector of Agricultural Income-tax.

Constitution
of a
Tribunal
and their
powers and
functions.

18-B. (1) The Tribunal as constituted for the time being under section 3-B of the Orissa Sales Tax Act, 1947 shall be the Tribunal for the purposes of this Act and shall exercise the powers, perform the functions and discharge the duties conferred and imposed on the said Tribunal by or under this Act.

Orissa Act
XIV
1947.

(2) All questions raised before the Tribunal shall be determined by a majority and the decision of the majority shall be the decision of the Tribunal :

Provided that any two members of the Tribunal shall be competent to dispose of its business and if in any event the opinions of the two members differ the matter shall be heard and disposed of by all the three members sitting together :

Provided further that the proceedings of the Tribunal shall not be deemed to be invalid merely by reason of a temporary vacancy caused by the death, retirement or removal of any member.

(3) The Tribunal may, with the previous sanction of the State Government make regulations consistent with the provisions of this Act and rules made thereunder, for regulating its procedure and the disposal of its business.

(4) The regulations made under sub-section (3) shall be published in the Gazette.

Supply of
informations
to State
Govern-
ment.

18-C. Notwithstanding anything contained in sub-section (1) of section 41-A., the Tribunal shall on application by the State Government in the manner prescribed supply all informations in all statistical matters available with the Tribunal ”.

Amendment
of section 26,
Orissa Act
XXIV of
1947.

5. For section 26 of the said Act, the following section shall be substituted, namely :—

Appeal
against the
order of
assessment
under sub-
section (5)
of section
25.

“ 26. (1) Any assessee dissatisfied with an order made under sub-section (5) of section 25, or the Commissioner of Agricultural Income-tax, as the case may be, may within thirty days from the date of receipt of such order prefer an appeal in the prescribed manner to the Tribunal, against such order :

Provided that the Tribunal may admit such appeal after the period hereinbefore specified if it is satisfied that the assessee or the Commissioner of Agricultural Income-tax, as the case may be, had sufficient cause for not preferring the said appeal within the said period.

(2) Notwithstanding that an appeal has been preferred under sub-section (1) the tax or the penalty due shall be paid in accordance with the assessment made in the case :

Provided that the Tribunal may, in its discretion, permit the appellant to pay such tax or penalty in such number of instalments, or give such other direction in regard to the payment thereof as it thinks fit and shall communicate such order to the appellant and the authority against whose orders such appeal has been preferred and a copy of such order shall also be sent to the Commissioner of Agricultural Income-tax.

(3) The Commissioner of Agricultural Income-tax or the assessee, as the case may be, on receipt of notice that an appeal has been preferred under sub-section (1) may, notwithstanding that he may not have appealed against such order or any part thereof within thirty days of the service upon him of the notice, file a memorandum of cross objections and such memorandum shall be disposed of by the Tribunal as if it were an appeal presented within time under sub-section (1).

(4) The Tribunal may, after giving the parties an opportunity of being heard, pass such orders thereon as it may think fit and shall communicate such order to the appellant and the authority against whose orders such appeal was preferred and a copy of such order shall also, if he is not the appellant, be sent to the Commissioner of Agricultural Income-tax.”

Amendment
of section 27,
Orissa Act
XXIV of
1947.

6. In section 27 of the said Act—

(i) for sub-section (3), the following sub-section shall be substituted, namely :—

“(3) The Collector of Agricultural Income-tax shall forward such appeal with a statement of his own opinion thereon to the Commissioner of Agricultural Income-tax who shall refer it to the Tribunal for decision and the Tribunal shall decide the appeal after hearing the appellant and any persons deputed by the Commissioner of Agricultural Income-tax.”

(ii) in sub-sections (4) and (5) for the words “Revenue Commissioner” wherever they occur the word “Tribunal” shall be substituted.

(iii) in sub-section (4) for the word ‘Collector’ the word ‘Commissioner’ shall be substituted and after the words ‘who shall transmit it’ the words ‘to the Collector of Agricultural Income-tax and’ shall be inserted.

Amendment
of section 28,
Orissa Act
XXIV of
1947.

7. For section 28 of the said Act, the following section shall be substituted, namely :—

“28. (1) The Collector of the Agricultural Income-tax may, for reasons to be recorded in writing upon application by an assessee or of his own motion call for the records and revise any order made under this Act by any Agricultural Income-tax authority subordinate to him, not being an order by an Assistant Collector of Agricultural Income-tax under section 21 or an order under section 26 or 27 :

Provided that the Collector of Agricultural Income-tax shall not entertain any such application for revision if the assessee filing the same having a remedy by way of appeal under sub-section (1) of section 25, did not avail of such remedy or an appeal has been preferred to the Tribunal under section 26.

(2) An application for revision under the foregoing provisions not made within thirty days from the date of receipt by an assessee of the order sought to be revised shall be liable to be rejected unless the Collector of Agricultural Income-tax is satisfied that the appellant had reasonable cause for not preferring the application in time :

Provided that nothing in this sub-section shall affect the power of the Collector of Agricultural Income-tax to reject the application summarily, without calling for records, if it is considered that there is no sufficient ground for interfering.

(3) No order prejudicial to an applicant shall be passed without giving him a reasonable opportunity of being heard :

Provided that an order declining to interfere with the order which is sought to be revised shall not be deemed to be an order prejudicial to the applicant.

(4) The Collector of Agricultural Income-tax shall not of his own motion pass an order under this section after the expiry of two years from the date of the order sought to be revised.

(5) Except as otherwise provided in this section and section 29, any order made by the Collector of Agricultural Income-tax under this section shall be final.

(6) (a) An assessee objecting to an enhancement of the tax due from him by an order in revision, or

(b) the Commissioner of Agricultural Income-tax objecting to a reduction of the tax payable by an order in revision,

may within thirty days of the date of receipt by him of such order, prefer an appeal to the Tribunal against the said order.

(7) The Tribunal may, after giving the parties an opportunity of being heard, pass such orders thereon as it may think fit and shall communicate such order to the appellant and the Agricultural Income-tax authority against whose orders such appeal was preferred and a copy of such order shall also be sent to the Commissioner of Agricultural Income-tax ”.

3. In section 29 of the said Act—

(i) sub-section (1) shall be omitted ;

(ii) for sub-section (2) the following sub-section shall be substituted, namely :—

“ (2) Within sixty days from the making of any order by the Tribunal under sections 26, 27 and 28 affecting any liability of any assessee to pay tax under this Act, such assessee or the Commissioner of Agricultural Income-tax as the case may be, may by application in writing accompanied, where the application is made by any person other than the Commissioner of Agricultural Income-tax, with a fee of one hundred rupees require the Tribunal to refer

to the High Court any question of law arising out of such order or decision, and except in cases covered under sub-section (3), the Tribunal shall within ninety days of the receipt of such application, draw up a statement of the case and refer it to the High Court :

Provided that, if, the Tribunal rejects the application on the ground that it is time barred or otherwise incompetent, or if, in exercise of its power under sub-section (3) the Tribunal refuses to state the case, the assessee may, within thirty days from the date on which he receives notice of the order passed by the Tribunal withdraw his application, and if he does so the fee paid shall be refunded."

(iii) to sub-section (3) the following proviso shall be added, namely :—

" Provided that the right available to the assessee to apply to the High Court under this sub-section shall not be exercised in case he withdraws his application and takes a refund of the fees payable under sub-section (2)."

(iv) in sub-sections (3), (4), (5), (6) and (8) for the words " Revenue Commissioner " wherever they occur, the word " Tribunal " shall be substituted.

(v) In sub-section (6) the words " or, if the case arose on a reference from any Agricultural Income-tax authority subordinate to it, shall forward a copy of such judgment to such authority who shall dispose of the case conformably to such judgment " shall be omitted.

Amendment
of section 33,
Orissa Act
XXIV of
1947.

9. In section 33 of the said Act—

(i) in sub-section (1) before the words " agricultural Income-tax authorities ", the words " members of the Tribunal and the " and after the words " proceeding before the said " the words " members of the Tribunal and the " shall be inserted ;

(ii) after sub-section (4) the following new sub-section shall be inserted, namely :—

" (5) The Tribunal shall have same powers as are vested in a Civil Court in respect of proof of facts by affidavits and for this purpose any officer authorised by the Tribunal may administer the oath to the deponent ".

Amendment
of section 35,
Orissa
Act XXIV
of 1947.

10. In the first proviso to sub-section (3) of section 35 of the said Act, the word and the figure " or 26 " shall be omitted.